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In re Application of  
ALLEN et al  
Application No.: 09/936,001  
PCT No.: PCT/IB00/00205  
Int. Filing Date: 08 February 2000  
Priority Date: 08 February 1999  
Attorney's Docket No.: NA  
For: APPARATUS FOR DETERMINING WHEN  
A PATIENT IS SUSCEPTIBLE TO  
DEFIBRILLATION

DECISION ON  
PETITION UNDER  
37 CFR 1.137(b)

This is in response to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 11 October 2000.

### BACKGROUND

On 08 February 2000, this international application was filed, claiming an earliest priority date of 08 February 1999.

A Demand was filed on 24 August 2000 within 19 months from the priority date for the above international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 08 August 2001. This international application became abandoned with respect to the United States at midnight on 08 August 2001 for failure pay the basic national fee.

On 06 September 2001, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, and a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee, and an executed declaration.

### DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

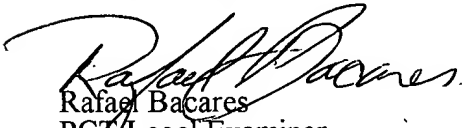
Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in § 1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

**DECISION**

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371 and for issuing a PCT/EO/DO/ form 905 (Notification of missing requirements) to inform applicant that an executed Declaration or Oath is missing.



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